

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Franklin Tolbert,

Plaintiff,

v.

**Jo Anne B. Barnhart,
Commissioner of Social Security,**

Defendant.

C/A No. 6:05-2824-CMC-WMC

OPINION AND ORDER

Plaintiff filed a complaint seeking judicial review of the final decision of the Commissioner denying his claim for disability insurance benefits or supplementary security income pursuant to Section 205(g) and 1631(c)(3) of the Social Security Act, as amended, 42 U.S.C. §§ 405(g) and 1383(c)(3). The matter is currently before the court for review of the Report and Recommendation of Magistrate Judge William M. Catoe, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(a) D.S.C.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

The United States Magistrate Judge has filed his Report and Recommendation, in which he recommends that the Commissioner's decision be reversed under sentence four of 42 U.S.C. § 505(g), with a remand of the cause to the Commissioner for further proceedings. No objections to the Report and Recommendation have been filed and the time for doing so has expired.

After reviewing the record, the applicable law, the briefs of counsel and the findings and recommendations of the Magistrate Judge, the court finds no clear error.

Therefore, the Commissioner's decision is **reversed** pursuant to sentence four of 42 U.S.C. § 405(g) and the case is **remanded** to the Commissioner for further proceedings as set forth in the Report and Recommendation.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
August 15, 2006